

**Executive Summary – Enforcement Matter – Case No. 40555**  
**PSJS ENTERPRISES INC dba Texaco Beer & Wine**  
**RN100536549**  
**Docket No. 2010-1700-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Texaco Beer & Wine, 3635 North Belt Line Road, Irving, Dallas County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 20, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,263

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$12,058

**Total Paid to General Revenue:** \$330

**Total Due to General Revenue:** \$7,875

Payment Plan: 35 payments of \$225 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

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***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** September 14, 2010

**Date(s) of NOE(s):** October 6, 2010

***Violation Information***

1. Failed to register the underground storage tank ("UST") system with the agency. Specifically, the UST installed on April 7, 2009, was not registered with the TCEQ after installation. Also, the registration was not amended to reflect the current ownership information [30 TEX. ADMIN. CODE § 334.7(a)(1)].
2. Failed to self-certify the UST system by submitting a properly completed UST registration and self-certification form to the agency within 30 days after the date any regulated substance is placed into the tank. Specifically, fuel was placed into the tank and the Respondent did not self-certify the UST system [30 TEX. ADMIN. CODE § 334.8(c)(4)(B)].
3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Respondent received five deliveries of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
5. Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, the line leak detector was not performance tested by the due date of July 22, 2010 [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].
6. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
7. Failed to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].
8. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a

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nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].

9. Failed to inspect all sumps including dispenser sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris. Specifically, the spill buckets contained liquid and debris [30 TEX. ADMIN. CODE § 334.42(i)].

10. Failed to conduct annual tightness inspections of all sumps, including the dispenser sumps or manways associated with a new secondarily contained UST system [30 TEX. ADMIN. CODE § 334.45(d)(1)(E)(iv)].

11. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, daily and monthly inspections records, maintenance records, a copy of the California Air Resources Board Executive Order, and the Stage II test results were not available for review [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

12. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

13. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual testing was not conducted by the due date of July 22, 2010 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

14. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:

- a. Obtained financial assurance coverage for the UST on October 7, 2010;
- b. Successfully conducted the line leak detector test on September 14, 2010; and

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c. Successfully conducted the annual testing of the Stage II equipment on September 14, 2010.

**Technical Requirements:**

The Order will require the Respondent to:

a. Immediately:

- i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form;
- ii. Begin maintaining all UST records;
- iii. Begin conducting effective manual or automatic inventory control procedures for the UST system; and
- iv. Begin maintaining all Stage II records at the Station;

b. Within 30 days:

- i. Ensure that the UST at the Station is properly tagged, labeled, or marked with an identification number that matches the number listed on the UST registration and self-certification form;
- ii. Clean the spill buckets and began conducting bimonthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system;
- iii. Begin conducting annual tightness inspections of all sumps and manways associated with the UST system;
- iv. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system; and
- v. Post operating instructions on the dispensers.

c. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A

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**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**TCEQ SEP Coordinator:** N/A

**Respondent:** Charles Park, Director, PSJS ENTERPRISES INC, 927 Condor Drive, Coppell, Texas 75019-5988

John Chong, Vice President, PSJS ENTERPRISES INC, 927 Condor Drive, Coppell, Texas 75019-5988

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	11-Oct-2010	<b>Screening</b>	15-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	18-Oct-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	PSJS ENTERPRISES INC dba Texaco Beer & Wine		
<b>Reg. Ent. Ref. No.</b>	RN100536549		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40555	<b>No. of Violations</b>	12
<b>Docket No.</b>	2010-1700-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Judy Kluge
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$19,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

**Compliance History** **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$950**

**Notes** Enhancement for one NOV with same or similar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$1,350**

**Economic Benefit** **0.0%** Enhancement **Subtotal 6** **\$0**

Total EB Amounts **\$1,749**  
Approx. Cost of Compliance **\$3,870**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$18,600**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **8.9%** **Adjustment** **\$1,663**

Reduces or enhances the Final Subtotal by the Indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1, 3, 4, 8, and 11.

**Final Penalty Amount** **\$20,263**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$20,263**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$4,052**

Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$16,211**

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PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%



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Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(a)(1) and 334.8(c)(4)(B)

Violation Description

Failed to register the UST system with the agency. Specifically, the UST installed on April 7, 2009 was not registered with the TCEQ after installation. Also, the registration was not amended to reflect the current ownership information. Failed to self-certify the UST system by submitting a properly completed UST registration and self-certification form to the agency within 30 days after the date any regulated substance is placed into the tank. Specifically, fuel was placed into the tank and the Respondent did not self-certify the UST system.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor
		X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 2

539 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$2,000

Two annual events are recommended based on documentation of the violation during the September 14, 2010 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$115

Violation Final Penalty Total \$2,288

This violation Final Assessed Penalty (adjusted for limits) \$2,288

# Economic Benefit Worksheet

**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine  
**Case ID No.** 40555  
**Reg. Ent. Reference No.** RN100536549  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	14-Sep-2010	8-Jun-2011	0.73	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and obtain a current valid TCEQ delivery certificate. The date required is the date of the investigation and the final date is the expected date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0	
Personnel				0.00	\$0	\$0	\$0	
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0	
Supplies/equipment				0.00	\$0	\$0	\$0	
Financial Assurance [2]				0.00	\$0	\$0	\$0	
ONE-TIME avoided costs [3]		\$100	7-Apr-2009	14-Sep-2010	2.36	\$12	\$100	\$112
Other (as needed)				0.00	\$0	\$0	\$0	

Notes for AVOIDED costs

The estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The date required is the UST installation date of April 7, 2009 and the final date is the investigation date.

Approx. Cost of Compliance

\$200

**TOTAL**

\$115

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Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3467(a)

## Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Respondent received five deliveries of fuel without a delivery certificate.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

## Violation Events

Number of Violation Events 5

5 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

Five single events (one event per delivery) are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,860

This violation Final Assessed Penalty (adjusted for limits) \$2,860

# Economic Benefit Worksheet

Respondent: PSJS ENTERPRISES INC dba Texaco Beer & Wine

Case ID No. 40555

Reg. Ent. Reference No. RN100536549

Media: Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description: No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 15-Oct-2010

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PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

388 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended for the UST at the Station.

## Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on October 7, 2010 after the NOV dated October 6, 2010.

Violation Subtotal \$900

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$693

Violation Final Penalty Total \$1,035

This violation Final Assessed Penalty (adjusted for limits) \$1,035

# Economic Benefit Worksheet

Respondent PSJS ENTERPRISES INC dba Texaco Beer & Wine  
 Case ID No. 40555  
 Reg. Ent. Reference No. RN100536549  
 Media Petroleum Storage Tank  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
 Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$660	14-Sep-2009	7-Oct-2010	1.00	\$33	\$660	\$693
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for one petroleum UST. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$660

TOTAL

\$693

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PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

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Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)

## Violation Description

Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, the line leak detector was not performance tested by the due date of July 22, 2010.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

54

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the September 14, 2010 investigation date.

## Good Faith Efforts to Comply

25.0%

Reduction

\$625

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Respondent came into compliance on September 14, 2010 prior to the NOE dated October 6, 2010.

Violation Subtotal \$1,875

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$116

Violation Final Penalty Total \$2,179

This violation Final Assessed Penalty (adjusted for limits) \$2,179

# Economic Benefit Worksheet

**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine

**Case ID No.** 40555

**Reg. Ent. Reference No.** RM100536549

**Media** Petroleum Storage Tank

**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$110	22-Jul-2010	14-Sep-2010	1.07	\$6	\$110	\$116
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the line leak detector test. The date required is the date the test was due and the final date is the compliance date.

Approx. Cost of Compliance

\$110

**TOTAL**

\$116



Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)

Violation Description

Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the September 14, 2010 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

# Economic Benefit Worksheet

Respondent PSJS ENTERPRISES INC dba Texaco Beer & Wine

Case ID No. 40555

Reg. Ent. Reference No. RN100536549

Media Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	14-Sep-2010	8-Jun-2011	0.73	\$18	n/a	\$18
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$18

Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1 31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the September 14, 2010 investigation to the October 15, 2010 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$2,860

This violation Final Assessed Penalty (adjusted for limits) \$2,860

# Economic Benefit Worksheet

Respondent PSJS ENTERPRISES INC dba Texaco Beer & Wine

Case ID No. 40555

Reg. Ent. Reference No. RN100536549

Media Petroleum Storage Tank

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount  
Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	14-Sep-2010	8-Jun-2011	0.73	\$18	n/a	\$18
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct inventory control for the UST involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$18

**Screening Date** 15-Oct-2010 **Docket No.** 2010-1700-PST-E **PCW**  
**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine *Policy Revision 2 (September 2002)*  
**Case ID No.** 40555 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN100536549  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Judy Kluge  
**Violation Number** 7  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.8(c)(5)(C)  
**Violation Description** Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.  
**Base Penalty** \$10,000

>> **Environmental, Property and Human Health Matrix**

**OR**  

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0%

>> **Programmatic Matrix**

Falsification	Harm		
	Major	Moderate	Minor
	X		

**Percent** 10%  
**Matrix Notes** 100% of the rule requirement was not met.  
**Adjustment** \$9,000

\$1,000

**Violation Events**

1 31 Number of violation days  
 mark only one with an x  

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$1,000  
 One single event is recommended based on documentation of the violation during the September 14, 2010 investigation.

**Good Faith Efforts to Comply**

**0.0%** Reduction  
 Before NOV NOV to EDPRP/Settlement Offer  
 Extraordinary  
 Ordinary  
 N/A X (mark with x)  
**Notes** The Respondent does not meet the good faith criteria for this violation.  
**Violation Subtotal** \$1,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$1,144  
**This violation Final Assessed Penalty (adjusted for limits)** \$1,144

# Economic Benefit Worksheet

Respondent: PSJS ENTERPRISES INC dba Texaco Beer & Wine

Case ID No. 40555

Reg. Ent. Reference No. RN100536549

Media: Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description: No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$100	14-Sep-2010	8-Jul-2011	0.81	\$4	n/a

Notes for DELAYED costs

The estimated cost includes the amount required to permanently affix a label to each UST fill tube. The date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code §§ 334.42(i) and 334.45(d)(1)(E)(iv)

Violation Description

Failed to inspect all sumps including the dispenser sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris. Specifically, the spill buckets contained liquid and debris. Also, failed to conduct annual tightness inspections of all sumps, including the dispenser sumps or manways associated with a new secondarily contained UST system.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

	1	31	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the September 14, 2010 investigation to the October 15, 2010 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$215

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

# Economic Benefit Worksheet

**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine

**Case ID No.** 40555

**Reg. Ent. Reference No.** RN100536549

**Media** Petroleum Storage Tank

**Violation No.** 8

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
Bi-monthly Inspections	\$100	16-Jul-2010	14-Sep-2010	1.08	\$5	\$100	\$105
Annual Inspections	\$100	14-Sep-2009	14-Sep-2010	1.92	\$10	\$100	\$110

Notes for AVOIDED costs

Estimated avoided cost to clean the spill buckets and conduct bimonthly inspections of the overfill containers or catchment basins. The date required is 60 days before the investigation and the final date is the investigation date. Estimated avoided cost to conduct annual inspections of the sumps or manways. The date required is one year prior to the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$200

**TOTAL**

\$215



Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, daily and monthly inspections records, maintenance records, a copy of the California Air Resources Board Executive Order, and the Stage II test results were not available for review.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the September 14, 2010 investigation.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

# Economic Benefit Worksheet

**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine  
**Case ID No.** 40555  
**Reg. Ent. Reference No.** RN100536549  
**Media** Petroleum Storage Tank  
**Violation No.** 9

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	14-Sep-2010	8-Jun-2011	0.73	\$18	n/a	\$18
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$18

Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the September 14, 2010 investigation to the October 15, 2010 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

# Economic Benefit Worksheet

**Respondent** PSJS ENTERPRISES INC dba Texaco Beer & Wine

**Case ID No.** 40555

**Reg. Ent. Reference No.** RN100536549

**Media** Petroleum Storage Tank

**Violation No.** 10

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **One/Time Costs**   **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	14-Sep-2010	8-Jul-2011	0.81	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost of training a Stage II Station representative and conducting In-house Stage training for all employees. The date required is the investigation date and the final date is the expected date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$20

Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

V12 11

Rule Cite(s)

30 Tex. Admin. Code § 115.245(2) and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II testing was not conducted by the due date of July 22, 2010.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

54 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the September 14, 2010 Investigation.

## Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on September 14, 2010 prior to the NOE dated October 6, 2010.

Violation Subtotal \$1,875

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$527

Violation Final Penalty Total \$2,179

This violation Final Assessed Penalty (adjusted for limits) \$2,179

# Economic Benefit Worksheet

**Respondent:** PSJS ENTERPRISES INC dba Texaco Beer & Wine

**Case ID No.:** 40555

**Reg. Ent. Reference No.:** RN100536549

**Media:** Petroleum Storage Tank

**Violation No.:** 11

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	22-Jul-2010	14-Sep-2010	1.07	\$27	\$500	\$527
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the Stage II testing. The date required is the date the test was due and the final date is the compliance date.

Approx. Cost of Compliance

\$500

**TOTAL**

\$527

Screening Date 15-Oct-2010

Docket No. 2010-1700-PST-E

PCW

Respondent PSJS ENTERPRISES INC dba Texaco Beer &amp; Wine

Policy Revision 2 (September 2002)

Case ID No. 40555

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100536549

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 12

Rule Cite(s) 30 Tex. Admin. Code § 115.242(9) and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the September 14, 2010 investigation to the October 15, 2010 screening date.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,144

This violation Final Assessed Penalty (adjusted for limits) \$1,144

# Economic Benefit Worksheet

Respondent PSJS ENTERPRISES INC dba Texaco Beer & Wine

Case ID No. 40555

Reg. Ent. Reference No. RN100536549

Media Petroleum Storage Tank

Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	14-Sep-2010	8-Jul-2011	0.81	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to post operating instructions on the dispensers. The date required is the investigation date and the final date is the expected compliance date.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4



# Compliance History Report

Customer/Respondent/Owner-Operator: CN603731050 PSJS ENTERPRISES INC Classification: AVERAGE Rating: 6.00  
Regulated Entity: RN100536549 TEXACO BEER & WINE Classification: AVERAGE Site Rating: 6.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 26504  
Location: 3635 N BELT LINE RD, IRVING, TX, 75062  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: October 15, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 15, 2005 to October 15, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: (817) 588-5825

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? PSJS ENTERPRISES INC
4. If Yes, who was/were the prior owner(s)/operator(s)? Exxon Mobil Corporation
5. When did the change(s) in owner or operator occur? 03/25/2009
6. Rating Date: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 08/29/2006 (489785)  
2 10/05/2010 (865791)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/29/2006	(489785)CN603731050
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(6)	
Description:	Failure to maintain a record of the results of the daily inspections conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.244 of this title (relating to Inspection Requirements).	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(3)	
Description:	Failure of the owner or operator of any motor vehicle fuel dispensing facility subject to the control requirements of this division (relating to Control of Vehicle Refueling Emissions (Stage II) at Motor Vehicle Fuel Dispensing Facilities) shall maintain a record of any maintenance conducted on any part of the Stage II	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(3)	
Description:	Failure to submit the results of all tests required by this section to the appropriate regional office and any local air pollution control program with jurisdiction within ten working days	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(6)	
Description:	Failure to submit the results of all tests required by this section to the appropriate regional office and any local air pollution control program with jurisdiction within ten working days	

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PSJS ENTERPRISES INC DBA  
TEXACO BEER & WINE  
RN100536549**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1700-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding PSJS ENTERPRISES INC dba Texaco Beer & Wine ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 3635 North Belt Line Road in Irving, Dallas County, Texas (the "Station").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 11, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand Two Hundred Sixty-Three Dollars (\$20,263) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty. Therefore, Twelve Thousand Fifty-Eight Dollars (\$12,058) of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The Respondent has paid Three Hundred Thirty Dollars (\$330) of the undeferred administrative penalty. The remaining amount of Seven Thousand Eight Hundred Seventy-Five Dollars (\$7,875) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Twenty-Five Dollars (\$225) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Obtained financial assurance coverage for the UST on October 7, 2010;
  - b. Successfully conducted the line leak detector test on September 14, 2010; and
  - c. Successfully conducted the annual testing of the Stage II equipment on September 14, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to register the UST system with the agency, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1), as documented during an investigation conducted on September 14, 2010. Specifically, the UST installed on April 7, 2009, was not registered with the TCEQ after installation. Also, the registration was not amended to reflect the current ownership information.
2. Failed to self-certify the UST system by submitting a properly completed UST registration and self-certification form to the agency within 30 days after the date any regulated substance is placed into the tank, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(B), as documented during an investigation conducted on September 14, 2010. Specifically, fuel was placed into the tank and the Respondent did not self-certify the UST system.
3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on September 14, 2010. Specifically, the Respondent received five deliveries of fuel without a delivery certificate.
4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on September 14, 2010.
5. Failed to test the line leak detector at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on September 14, 2010. Specifically, the line leak detector was not performance tested by the due date of July 22, 2010.
6. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on September 14, 2010.
7. Failed to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel, in violation of

- 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on September 14, 2010.
8. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on September 14, 2010.
  9. Failed to inspect all sumps including dispenser sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on September 14, 2010. Specifically, the spill buckets contained liquid and debris.
  10. Failed to conduct annual tightness inspections of all sumps, including the dispenser sumps or manways associated with a new secondarily contained UST system, in violation of 30 TEX. ADMIN. CODE § 334.45(d)(1)(E)(iv), as documented during an investigation conducted on September 14, 2010.
  11. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 14, 2010. Specifically, daily and monthly inspections records, maintenance records, a copy of the California Air Resources Board Executive Order, and the Stage II test results were not available for review.
  12. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 14, 2010.
  13. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 14, 2010. Specifically, the Stage II annual testing was not conducted by the due date of July 22, 2010.
  14. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 14, 2010.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: PSJS ENTERPRISES INC dba Texaco Beer & Wine, Docket No. 2010-1700-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order:

- i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8 to:

Registration and Reporting Section  
Permitting & Registration Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10;
- iii. Begin conducting effective manual or automatic inventory control procedures for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.48; and
- iv. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.

- b. Within 30 days after the effective date of this Agreed Order:

- i. Ensure that the UST at the Station is properly tagged, labeled, or marked with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8;
  - ii. Clean the spill buckets and began conducting bimonthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.42;
  - iii. Begin conducting annual tightness inspections of all sumps and manways associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.45;
  - iv. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in accordance 30 TEX. ADMIN. CODE § 115.248; and
  - v. Post operating instructions on the dispensers, in accordance with 30 TEX. ADMIN. CODE § 115.242.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.v. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087



with a copy to:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

6/10/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

4/20/11

John Chong  
\_\_\_\_\_  
Name (Printed or typed)

\_\_\_\_\_  
Title

Vice president

Authorized Representative of

PSJS ENTERPRISES INC dba Texaco Beer & Wine

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

